

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

# PCT

To:

see form PCT/ISA/220

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing  
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

**FOR FURTHER ACTION**  
See paragraph 2 below

International application No.  
PCT/GB2005/000481

International filing date (day/month/year)  
11.02.2005

Priority date (day/month/year)  
11.02.2004

International Patent Classification (IPC) or both national classification and IPC  
B65D49/08

Applicant  
WEBB, Mark Otto

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

10/588893  
AP20 Rec'd PCT/TO 10 AUG 2006  
International application No.  
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**Box No. I Basis of the opinion**

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1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.  
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:  
☐ a sequence listing  
☐ table(s) related to the sequence listing
  - b. format of material:  
☐ in written format  
☐ in computer readable form
  - c. time of filing/furnishing:  
☐ contained in the international application as filed.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/GB2005/000481

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	2 (if clarified), 3-18 (if dependent on clarified claim 2)
	No: Claims	1
Inventive step (IS)	Yes: Claims	2 (if clarified), 3-18 (if dependent on clarified claim 2)
	No: Claims	1
Industrial applicability (IA)	Yes: Claims	1-18
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING  
AUTHORITY (SEPARATE SHEET)

International application No.

PCT/GB2005/000481

**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

**V.1) Reference is made to the following documents:**

- D1: US-A-5 927 556 (MOONEY ET AL) 27 July 1999 (1999-07-27)  
D2: WO 03/059752 A (JEON, GYEONG-JIN) 24 July 2003 (2003-07-24)  
D3: US-A-2 262 115 (PATTERSON JOSEPH ARTHUR) 11 November 1941 (1941-11-11)

**V.2) Lack of novelty**

**The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of independent claim 1 cannot be considered new in the sense of Article 33(2) PCT in view of D1.**

Remark: the document D1 (cf. e.g. abstract in combination with fig.3) discloses a safety closure which obviously differs from the closure of the present application (cf. embodiments 1-3 shown in figures 1,9 and 17); however, the combination of features of claim 1 is covered by the disclosure of D1 (lack of novelty), since claim 1 does not define all essential features of the invention; the detailed reasoning being as follows.

Reasoning: D1 discloses "a (safety) closure for a container" comprising a "closure member" (cf. D1, fig.3, ref. 20) and a "key member" (cf. D1, fig.3, ref. 50) wherein said closure member according to D1 also includes an "opening/conduit" (cf. D1, fig.3, ref. 30) communicating with a "concealed sealing member" (cf. D1, fig.3, movable valve rod ref. 41) which is (spring-based) biased towards the "closed position" (opening/conduit automatically closed).

Furthermore, the closure member ref. 20 of D1 comprises an "access channel" (cf. D1, fig.3, chamber ref. 29 housing said valve rod/sealing member and being, thus, in communication with the sealing member as claimed); said channel ref. 29 is engaged by

an "engagement portion" of the key member ref. 50 (cf. D1, fig.3, releasable actuating button ref.56) in order to "move the sealing member into the open position" as claimed (see also D1, col. 4, par.4). **Consequently, the combination of features of claim 1 is disclosed by D1 (lack of novelty, Article 33(2) PCT).**

Present claim 2 (definition of additional, typical key protrusions) merely defines a design option for elements ref. 41, 56 of D1. The other dependent claims do also not clarify the basic closure structure of the application being clearly directed to a closure restricting any access (dispensing and/or addition of material) to a qualified person having the key member (cf. D1, page 1); i.e. the invention is directed to a closure with a removable key member wherein the closure is reliably closed without key member and only openable by using/inserting (from the top) a spout-type key member into an access channel of the closure member (access channel extending from the top towards a lift valve type sealing member: cf. figures and e.g. page 15, lines 13-22 of the application).

D1, as already mentioned above, is directed to a different type of safety closure (child-proof safety cap based on two permanently co-operating cap portions wherein the actuation/opening requires several difficult/complex steps).

D2 and D3 merely define closures with movable sealing members of the claimed type, however without any access restricting actuating means/key members (the contents is automatically dispensed by tilting the bottles with closure).

**Therefore, an accordingly clarified claim 2 comprising a clear definition of the closure structure (sealing member type/arrangement, arrangement/extension of the access channel) based on terms of the application/description as filed in order not to introduces subject-matter which extends beyond the content of the application as filed (Article 19(2)/Article 34(2)(b) PCT) would meet all criteria of Article 33(1) PCT in view of D1-D3.**

**Claims 3-18 would also meet all criteria of Article 33(1) PCT, if dependent on such an accordingly clarified claim 2.**

### V.3) Further Comments

**WRITTEN OPINION OF THE  
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AUTHORITY (SEPARATE SHEET)**

International application No.

PCT/GB2005/000481

- Independent claim 1 is not in the two-part form in accordance with **Rule 6.3(b) PCT**, the features of the claims are not provided with reference signs placed in parentheses (**Rule 6.2(b) PCT**) and the definition of claim 13 should have been corrected (cf. present restriction to a "closure member according to..."; obvious mistake in view of the wording of the other dependent claims).

- Relevant background art documents (cf. D1-D3) should have been cited (**Rule 5.1(a)(ii) PCT**) and the obvious mistake on page 8, line 4 should have been corrected (figure 11 obviously shows the arrangement of figure 10 in a second operating condition).